

## Supreme Judicial Court and Appeals Court of Massachusetts



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## SUPREME JUDICIAL COURT for the Commonwealth

### Case Docket

**COMMONWEALTH vs. ROBERT L. UPTON**  
PARTIALLY SEALED  
SJC-11459

## CASE HEADER

<b>Case Status</b>	Ready	<b>Status Date</b>	04/26/2019
<b>Nature</b>	Murder1 appeal	<b>Entry Date</b>	05/28/2013
<b>Appellant</b>	Defendant	<b>Case Type</b>	Criminal
<b>Brief Status</b>		<b>Brief Due</b>	
<b>Quorum</b>			
<b>Argued Date</b>		<b>Decision Date</b>	
<b>AC/SJ Number</b>		<b>Citation</b>	
<b>DAR/FAR Number</b>		<b>Lower Ct Number</b>	
<b>Lower Court</b>	Barnstable Superior Court	<b>Lower Ct Judge</b>	Gary A. Nickerson, J.
<b>Route to SJC</b>	Direct Entry: Murder 1		

## ADDITIONAL INFORMATION

Transcripts received: 12 volumes, 1 set (on CD). Transcripts dates: 3/16/12, 3/21/12, 1/7/13, 1/8/13, 1/9/13, 1/10/13, 1/11/13, 1/14/13, 1/15/13, 1/16/13, 1/17/13 and 1/18/13. (Scanned)

## INVOLVED PARTY

**Commonwealth**  
Plaintiff/Appellee  
Red brief filed  
1 Ext, 4 Days

**Robert L. Upton**  
Defendant/Appellant  
Blue brief & appendix filed  
12 Exts, 1952 Days

## ATTORNEY APPEARANCE

[Julia K. Holler](#), A.D.A.  
Withdrawn

[Elizabeth Anne Sweeney](#), Esquire

[Theodore F. Riordan](#), Esquire  
[Jeffrey L. Baler](#), Esquire  
Withdrawn

[Dorothy A. Mele](#), Esquire  
Withdrawn

## DOCUMENTS

[Appellant Upton Brief](#)
[Appellee Commonwealth Brief](#)

## DOCKET ENTRIES

Entry Date	Paper	Entry Text
05/28/2013	#1	Entered. Notice to counsel.
09/27/2013	#2	MOTION to extend to 01/23/2014 filing of brief of Robert L. Upton by Jeffrey L. Baler, Esquire.
10/01/2013		ALLOWANCE of Paper #2 to 01/23/2014 for filing of brief of Defendant/Appellant Robert L. Upton. Notice to counsel.

**DOCKET ENTRIES**

01/23/2014	#3	MOTION to extend to 04/23/2014 filing of brief of Robert L. Upton by Jeffrey L. Baler, Esquire. (Allowed to April 23, 2014.)
04/22/2014	#4	MOTION to extend to 06/23/2014 filing of brief of Robert L. Upton by Jeffrey L. Baler, Esquire. (ALLOWED to June 23, 2014)
06/23/2014	#5	MOTION to extend to 08/22/2014 filing of brief of Robert L. Upton by Jeffrey L. Baler, Esquire. (ALLOWED to August 22, 2014.)
08/18/2014	#6	MOTION FOR STAY OF APPEAL, filed for Robert L. Upton by Jeffrey L. Baler, Esquire. (The motion to stay appellate proceedings is ALLOWED. Status reports to be filed every 30 days)
09/22/2014	#7	STATUS LETTER from Jeffrey L. Baler, Esquire: See status on file. (Noted. Further status report in 30 days)
10/24/2014	#8	STATUS LETTER from Jeffrey L. Baler, Esquire: See letter on file.
11/24/2014	#9	STATUS LETTER from Jeffrey L. Baler, Esquire: See letter on file.
12/31/2014	#10	MOTION FOR NEW TRIAL, filed for Robert L. Upton by Jeffrey L. Baler, Esquire. *Also, Memorandum in support of motion for new trial and Motion for Discovery filed.
12/31/2014	#11	ORDER: Remanded to Barnstable Superior Court.
02/13/2015	#12	STATUS LETTER from Jeffrey L. Baler, Esquire. See letter on file.
03/16/2015	#13	STATUS LETTER from Jeffrey L. Baler, Esquire. See status on file.
04/17/2015	#14	STATUS LETTER from Jeffrey L. Baler, Esquire. See status on file.
05/18/2015	#15	STATUS LETTER from Jeffrey L. Baler, Esquire. See status on file.
06/18/2015	#16	STATUS LETTER from Jeffrey L. Baler, Esquire. See status on file.
07/20/2015	#17	STATUS LETTER from Jeffrey L. Baler, Esquire. See status on file.
08/25/2015	#18	STATUS LETTER from Jeffrey L. Baler, Esquire. See status on file..
09/28/2015	#19	STATUS LETTER from Jeffrey L. Baler, Esquire: See letter on file. (Further status in 60 days or upon receipt of the trial court's decision on the motion for new trial, whichever is sooner.)
10/30/2015	#20	STATUS LETTER from Jeffrey L. Baler, Esquire: See letter on file.
11/23/2015	#21	APPEAL ON DENIAL OF MOTION FOR NEW TRIAL. Brief/Appendix due for Appellant on 12/30/15 and for the Commonwealth on 1/30/16
12/28/2015	#22	MOTION to extend to 03/02/2016 filing of brief of Robert L. Upton by Jeffrey L. Baler, Esquire. (ALLOWED to March 2, 2016, for the reasons stated in the motion.)
02/22/2016	#23	MOTION TO WITHDRAW APPEARANCE for Robert L. Upton by Jeffrey L. Baler, Esquire. (The motion to withdraw is ALLOWED conditioned upon the entry of appearance of successor counsel.)
03/02/2016	#24	MOTION FOR STAY OF APPEAL, filed for Robert L. Upton by Jeffrey L. Baler, Esquire. (ALLOWED to provide more time for the appointment of successor counsel.)

**DOCKET ENTRIES**

03/21/2016	#25	Notice of Assignment of Counsel, Atty. Theodore Riordan for defendant.
03/31/2016	#26	NOTICE Of Appearance of Atty. Theodore Riordan for Defendant.
03/31/2016	#27	STATUS LETTER from Theodore F. Riordan, Esquire: See letter on file. (Further status report within 30.)
09/26/2016	#28	STATUS LETTER from Theodore F. Riordan, Esquire requesting an extension for the brief writing period. (ALLOWED through December 26, 2016.)
11/08/2016	#29	EX PARTE MOTION for Funds for Transcripts, filed for Robert L. Upton by Theodore F. Riordan, Esquire.
11/08/2016	#30	MOTION FOR STAY OF APPEAL, filed for Robert L. Upton by Theodore F. Riordan, Esquire.
11/10/2016	#31	ORDER: The motion to stay appellate proceedings is ALLOWED through December 16, 2016, for the purposes of obtaining the transcript. The ex parte motion for funds is hereby remanded to the Superior Court. By the Court.
01/03/2017	#32	STATUS LETTER from Theodore F. Riordan, Esquire: See letter on file. (Noted. Further status report in 60 days regarding the receipt and review of the transcript.)
03/10/2017	#33	STATUS LETTER from Theodore F. Riordan, Esquire: See letter on file. (Noted. Further status in 30 days regarding the transcripts in the civil matter. By the Court)
04/24/2017	#34	STATUS LETTER from Theodore F. Riordan, Esquire: See letter on file.
06/05/2017	#35	STATUS LETTER from Theodore F. Riordan, Esquire.
02/02/2018	#36	MOTION to extend to 2/2/18 filing of Motion for New Trial, filed for Robert L. Upton by Theodore F. Riordan, Esquire.
02/02/2018	#37	MOTION FOR NEW TRIAL with Memorandum and Appendix Volumes 1 to 3, filed for Robert L. Upton by Theodore F. Riordan, Esquire.
02/05/2018	#38	ORDER: Remanded to Barnstable Superior Court.
06/01/2018	#39	STATUS LETTER from Theodore F. Riordan, Esquire.
08/17/2018	#40	ORDER: The defendant's brief is due on or before December 17, 2018. By the Court.
08/22/2018	#41	The record received from Barnstable County Superior Court on the denial of the defendant's motion for new trial.
10/30/2018	#42	NOTICE OF STATUS CONFERENCE: A STATUS CONFERENCE has been scheduled in this matter for THURSDAY, NOVEMBER 29, 2018, at 11:00 A.M., in Courtroom 1, John Adams Courthouse, One Pemberton Square, Boston, Massachusetts. A status report shall be filed by November 16, 2018. (Botsford, J., presiding as Special Master).
11/19/2018	#43	STATUS LETTER from Theodore F. Riordan, Esquire.
12/04/2018	#44	NOTICE: The parties having appeared for a status conference before Special Master Margot Botsford on November 29, 2018, it is reported and recommended that the defendant's brief shall be filed on or before December 31, 2018, and the Commonwealth's brief shall be filed on or before April 1, 2019.
12/14/2018	#45	ORDER: Upon consideration of the report of the Special Master, it is ORDERED that the defendant's brief shall be filed on or before December 31, 2018, and the Commonwealth's brief shall be filed on or before April 1, 2019. By the Court

**DOCKET ENTRIES**

01/02/2019	#46	MOTION to extend to 01/30/2019 filing of brief of Robert L. Upton by Theodore F. Riordan, Esquire. (ALLOWED to January 30, 2019.)
01/04/2019	#47	NOTICE OF AVAILABILITY OF ELECTRONIC FILING: The clerk's office will accept briefs, appendices, motions, status reports, and correspondence through eFileMA effective immediately. Please note that after review and docketing of e-filed briefs and appendices, the clerk will require a limited number of paper copies to be filed. Parties are free to file their briefs and record appendices under the revised rules of appellate procedure prior to their effective date, March 1, 2019.
01/22/2019	#48	MOTION to exceed page limit filed for Robert L. Upton by Attorney Theodore Francis Riordan. (ALLOWED)
01/22/2019	#49	Appellant brief filed for Robert L. Upton by Attorney Theodore Francis Riordan.
01/22/2019	#50	Appendix Volume 1 filed for Robert L. Upton by Attorney Theodore Francis Riordan.
01/22/2019	#51	Appendix Volume 2 filed for Robert L. Upton by Attorney Theodore Francis Riordan.
01/22/2019	#52	Appendix Volume 3 filed for Robert L. Upton by Attorney Theodore Francis Riordan.
01/22/2019	#53	(SEALED) Appendix Volume 4 filed for Robert L. Upton by Attorney Theodore Francis Riordan.
01/22/2019	#54	Appendix Volume 5 filed for Robert L. Upton by Attorney Theodore Francis Riordan.
01/22/2019		NOTICE: The clerk's office has received the appellant's brief and record appendices (Vol. 1-5) through e-fileMA. The brief and appendices have been accepted for filing and entered on the docket. The appellant shall file with the clerk 4 copies of the brief and appendices within 5 days. The clerk's office may require additional copies if necessary.
01/23/2019	#55	Motion to Unimpound Appendix Volume 4 filed for Robert L. Upton by Attorney Theodore Francis Riordan.
01/24/2019	#56	Additional 4 copies of each appellant's brief and appendix volumes 1 to 5 filed by Robert L. Upton. (Note: Appendix volume 4 is sealed.)
02/13/2019	#57	NOTICE OF TELEPHONE CONFERENCE: A telephone conference has been scheduled in this matter for WEDNESDAY, FEBRUARY 20, 2019, at 3:00 P.M. (Botsford, J., presiding as Special Master).
02/13/2019	#58	RESPONSE to Paper #55, filed for the Commonwealth by Elizabeth Sweeney, A.D.A..
02/14/2019	#59	Defendant's Response to Commonwealth's Opposition to Unimpound Appendix 4, filed for Robert L. Upton by Attorney Theodore Francis Riordan.
04/22/2019	#60	Motion to extend to date for filing of appellee's brief filed for Commonwealth by Elizabeth Sweeney, A.D.A. (ALLOWED to April 26, 2019.)
04/26/2019	#61	Appellee brief filed for Commonwealth by Elizabeth Sweeney, A.D.A.
04/26/2019		The clerk's office has received the Commonwealth's brief through e-fileMA. The brief has been accepted for filing and entered on the docket. The Commonwealth shall file with the clerk 4 copies of the brief within 7 days. The clerk's office may require additional copies if necessary.
05/06/2019	#62	Additional 4 copies of appellee's brief filed by Commonwealth.

